



ఆంధ్రప్రదేశ్ రాజపత్రము
THE ANDHRA PRADESH GAZETTE
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PART II EXTRAORDINARY

No.66

AMARAVATI, MONDAY, MARCH 11, 2024

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NOTIFICATIONS BY HEADS OF DEPARTMENTS, Etc.

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LEGISLATURE SECRETARIAT
(COUNCIL-LEGN.)

BEFORE THE HON'BLE CHAIRMAN
ANDHRA PRADESH LEGISLATIVE COUNCIL
AT VELEGAPUDI

MONDAY, The 11th MARCH, 2024

Present: Sri Koye Moshenu Raju, Hon'ble Chairman
Disqualification Petition No.1 of 2024

BETWEEN

Sri Meriga Muralidhar S/o Ananda Rao,
Aged about 55 years, Government whip,
Member of Legislative Council,
Yuvajana Sramika Rythu Congress Party
in A.P. State Legislative Council.

...PETITIONER

AND

Sri Chennamsetty Ramachandraiah,
S/o Late Chennamsetty Sriramulu, Aged about 76 years,
Member of Legislative Council,
Yuvajana Sramika Rythu Congress Party in A.P. State Legislative Council.

...RESPONDENT

ORDER

This petition is filed by Sri Meriga Muralidhar, Government Whip of the YSRC Legislature Party, the Petitioner under Article 191 of X Schedule of the Constitution of India, r/w Rule 6 of the Members of the Andhra Pradesh Legislative Council (Disqualification on Ground of Defection) Rules, against Sri C. Ramachandraiah, Member, YSRCP (the Respondent).

1. SUBMISSIONS OF THE PETITIONER:

- 1.1. The Petitioner in his petition submitted that the respondent was elected as member of the Legislative Council in March 2021 by the Members of Legislative Assembly.
- 1.2. The Petitioner stated that the Respondent got elected as MLC from YSRCP. The petitioner also stated that the respondent after having assumed charge as MLC, had voluntarily acted in contravention to the principles of the YSRCP and also to the mandate given by the Majority will of his constituency and had begun to function in affiliation to the Opposition Party and has given up his membership of the legislative party by which the Respondent was elected.
- 1.3. The Petitioner also stated that the Respondent had extended his support to the Opposition Party by joining the Opposition Party/Telugu Desam Party on 3rd January, 2024 at about 4 PM at Guntur TDP Central Office in the Presence of TDP Chief Sri Nara Chandrababu Naidu and the respondent had not only visited the Central Office of the Opposition Party in public on the above said date but had also evidently joined the said political party by symbolically

accepting the “khanduva” depicting the color of the Opposition Party flag containing the symbols of opposition party along with photos of opposition leader. This act evidently shows that the Respondent defected to the opposition party violating the relevant provisions of the Constitution of India, the Petitioner averred.

1.4. He further stated that the respondent elected by YSRCP MLAs with his legislative council membership had expressed his willingness to work with opposition party and after joining the opposition party he evidently made several allegations against the YSRC Legislature Party and its leader and the said statements and allegations were published in print and electronic media and all those statements, photographs and videos were submitted as proofs of defection.

1.5. The Petitioner further submitted that the Respondent had indicated his allegiance to the actions of the TDP by propagating and making derogatory statements against YSRC Legislature Party which were video graphed and telecasted in all TV channels photographs of which have been published in all the vernacular newspapers and the Respondent has neither denied nor contradicted the contents of such telecasts and publications evidencing thereby, that the Respondent has conclusively by his act and intent voluntarily given up his membership of YSRCP within the meaning of the said expression in para 2(1)(a) of the X Schedule of the Constitution of India.

1.6. The Petitioner has also stated that the visible conduct of the Respondent undeniably amounts to voluntarily giving up his membership of YSRCP.

The Respondent contested elections and secured election from the YSRC Party and therefore the Respondent has defected to TDP and the Respondent deserves to be disqualified from being continued as member of Legislative Council as mandated under para2(1)(a) of the X Schedule of the Constitution of India. The Petitioner prayed to disqualify the Respondent i.e. Sri. C. Ramachandraiah as the Respondent had voluntarily given up his membership of the political party by which the Respondent has got elected.

2. THE PROCEEDINGS BEFORE THIS AUTHORITY:

- 2.1.** On 8th January 2024, Sri Muralidhar Meriga, the Petitioner, Govt. Whip has submitted the captioned disqualification petition and the Respondent was served a notice on the same day to offer his comments within a week through India Post by providing all the papers along with the C.D. given by the Petitioner and through email and Whatsapp as well.
- 2.2.** On 15.01.2024 the Respondent requested extension of time for offering his remarks for two weeks and this Authority having considered the request of the Respondent, extended the time for offering comments by one week i.e., w.e.f. 19th January, 2024.
- 2.3.** Thereafter, on 24th January 2024, the Respondent sought for further extension of time by four weeks and such request was partially allowed and while not accepting the said request, this Authority had issued another notice dated 25th January 2024 upon the Respondent to depose before the Authority for oral evidence on 29th January, 2024.

- 2.4.** The petitioner as well as the Respondent did not appear on 29th January, 2024. Thereafter, another opportunity was given to the Respondent to offer his comments by 5th February 2024, and to appear before this Authority at 11.00 A.M on Thursday, the 8th February 2024 for oral hearing on the petition.
- 2.5.** On the 5th February, 2024, after having dragged the proceedings inappropriately, the Respondent had filed his comments, denying the averments made against him by the Petitioner.
- 2.6.** The Petitioner and also the Respondent appeared and deposed before this Authority on 8th February 2024. Further, the Respondent was requested to appear before this Authority at 11.00 AM on Tuesday the 13th February, 2024 for clarifications, if any, on the 65B certificate that was placed on record by the Petitioner. The Respondent not only failed to appear on the specified date but also chose not to provide any cogent reasons for non-appearance. Subsequently, the Respondent was once again requested to appear before the presiding authority at 11:00 AM on Monday, the 19th February, 2024, to present any comments or objections regarding the certificate and any other relevant matters pertaining to the case. This repeated request for the Respondent's presence underscores the importance of their participation in the proceedings and their opportunity to address any concerns or objections they may have had.
- 2.7.** The Respondent chose not to appear for oral hearing on 19.02.2024. Upon such non-appearance, this Authority having granted ample opportunity had

got issued a letter dated 19.02.2024 informing that the Petition will be finalised based on the merits/records as are placed before this Authority and had reserved the decision on Disqualification Petition. At such juncture, when the Disqualification Petition was concluded and reserved for Orders, the Respondent filed I.A.No.1 of 2024 before this Authority and the same was sent to the Petitioner to offer his comments on IA. Further, the captioned Interlocutory Application was posted to 01.03.2024 for the comments of the Respondent/Petitioner and also for the hearing on the Captioned Interlocutory Application. This Authority had received the following comments from the Respondent/Petitioner:

“It is vehemently placed on record that since the date of inception of the captioned proceedings, the Petitioner/Respondent has been requesting for an adjournment on one pretext or the other. It is humbly submitted that only when the Office of the Hon’ble Chairman posted the matter offering the last opportunity for the Petitioner/Respondent to file the comments/reply, the Petitioner/Respondent had filed his Comments/Reply.

It is further pertinent to note that the even after filing the Comments/Reply, the Petitioner/Respondent had sought for an adjournment on one pretext or the other and had vehemently tried to delay the proceedings. As things stood thus, after giving ample opportunity, the Hon’ble Chairman had posted the matter for final hearing and granted a final opportunity for the Petitioner/Respondent to make his submissions and it was also recorded that in the event the Petitioner/Respondent fails to make submissions on such final hearing, the matter would be concluded. Upon receiving such notice, the Petitioner/Respondent had

innovatively filed the captioned Interlocutory Application merely to further drag-on the proceedings.

Ironically, the Petitioner/Respondent had taken a plea that the Captioned Disqualification Proceedings needs to be stalled till such time the Writ Proceedings are not concluded before the Hon'ble High Court. It is pertinent to note that the Hon'ble High Court, upon hearing the submissions of the Petitioner/Respondent, had chosen not to grant any "stay of the proceedings" in the captioned Disqualification Proceedings. It is pertinent to note that having failed to obtain any interim order from the Hon'ble High Court, the demand of the Petitioner/Respondent to delay the proceedings till the conclusion of the writ proceedings is not known in law and therefore, the proceedings need not be stalled for the said reason.

Further, it is humbly submitted that the Petitioner/Respondent was indeed provided with ample opportunity and therefore, the Interlocutory Application is liable to be dismissed/rejected in lemenie."

- 2.8.** Further, as recorded in the notice, the captioned Interlocutory Application was slated to be taken up for hearing on 01.03.2024. However, the Petitioner expressed his inability to appear for oral hearing and informed that the flights were not available from Kadapa to Vijayawada on 29th February 2024 and thereby he was unable to travel by road due to spinal surgery. Further, as recorded herein above, the Respondent had placed on record his comments and reply to the captioned Interlocutory Application.

- 2.9. Having considered the submissions made by the Respondent through its Interlocutory Application and also the comments of the Petitioner, this Authority records the following observations:

“This Authority is of the opinion that the conduct of the Petitioner/Respondent since the inception of the Disqualification Proceedings are aimed at achieving the objective of either dodging or delaying the disqualification Proceedings. The said conduct is very much visible from the fact that the Petitioner/Respondent is not forthcoming to make his submissions before this Authority despite offering numerous opportunities to make his submissions on his behalf. Further, this Authority records that the Petitioner/Respondent seeks to delay the Disqualification Proceedings till the disposal of the writ proceedings that are claimed to be pending before the Hon’ble High Court. Upon perusal of the said fact, this Authority has noted that the Hon’ble High Court had not stayed the proceedings and therefore, there arises no reason for this Authority to stall the proceedings till the conclusion of the writ proceedings before the Hon’ble High Court.

Having recorded the above observations, this Authority is of the opinion that the Petitioner/Respondent is not entitled for any further opportunities and therefore, the Captioned Interlocutory Application is liable to be dismissed. However, having made the above prima facie observation, this Authority feels that providing one last opportunity to the Petitioner/Respondent to make his submissions in the proceedings would not cause any irreparable loss or adverse effect upon the Respondent/Petitioner, further, keeping in mind the objective of principles of natural justice, though the Petitioner/Respondent is not entitled to any relief in the captioned Interlocutory Application, this Authority is inclined to allow the Captioned Interlocutory Application and post the Disqualification Petition for final hearing on 05.03.2024.

It is necessary to place on record that the captioned Interlocutory Application is being allowed on a condition that any further attempts by the Petitioner/Respondent to delay or drag the proceedings would not be entertained and in the event the Petitioner/Respondent fails to appear before this Authority on 05.03.2024, this Authority shall proceed and conclude the proceedings on the basis of the available record.

The Petitioner/ Respondent and also the Respondent/Petitioner may accordingly appear before this Authority for oral hearing on Tuesday, 5th March, 2024 at 12 Noon and make their final submissions.”

2.10. On March 5th, 2024, both the Petitioner and Respondent appeared before this authority. During the proceedings, the Petitioner reaffirmed his stance, in accordance with the petition previously submitted. Conversely, the Respondent expressed his intent not to provide any additional information beyond what he had already personally submitted. As a result, this authority reserved for its decision on the petition.

3. COMMENTS MADE BY THE RESPONDENT:

3.1. The respondent in his comments stated that, it is true that he got elected as a Member of Legislative Council and discharging his responsibilities in the right earnest from the date of his election and in the petition the contention that he had voluntarily given up the membership is utterly false and deserves no consideration.

- 3.2. The respondent in his comments stated that the petition is a politically colored statement and the petitioner made only general and sweeping allegations without substantiating his stand and his allegations are not based on any material evidence but only on a mere conjecture or surmise.
- 3.3. The respondent in his comments stated that the YouTube hyperlink original copy required to be supplied to him and the material on which the petitioner relied for seeking disqualification under para 2 (1) (a) of the X Schedule of the Constitution of India is untenable and deserves no consideration and his actions do not fall within the definition of defection.
- 3.4. The Respondent also commented that, it is untrue that he has voluntarily given up his membership either by conduct or by any other act and the averment on the face of it is a statement of prejudice and does not fall within the realm of X Schedule of the Constitution of India and the petition be dismissed.
- 3.5. Having granted ample opportunities to the Respondent to come forward and verify the record, the Respondent continued to not come forward and continued to seek time on flimsy grounds and continued to postpone the proceedings on one pretext or the other till 05.03.2024 and on 05.03.2024 made oral submissions and all the material relied by both the parties are already on record, this Authority proceed to issue the following orders.

4. ISSUES FOR CONSIDERATION:

Having considered the submissions of the Petitioner and also the submissions made by the Respondent, the following questions are identified to be taken up for consideration and adjudication in the present proceedings:

1. *Whether Respondent has given up the membership of the Original Political Party voluntarily? Whether the alleged antiparty activities of Respondent can be inferred as voluntarily given up the membership of YSRC Party?*
2. *Whether the Respondent is liable to be disqualified and whether the relief sought in the Petition can be granted or the Petition is liable to be dismissed?*

5. ANALYSIS / REASONING:

- 5.1. *Whether Respondent has given up the membership of the Original Political Party voluntarily? Whether the alleged antiparty activities of Respondent can be inferred as voluntarily given up the membership of YSRC Party? & whether the Respondent is liable to be disqualified and whether the relief sought in the Petition can be granted or the Petition is liable to be dismissed? As the said Issues are intertwined, This Authority dealing to analyse both the Issues simultaneously.***

5.1.1. That the Petitioner Government Whip of the YSRC Legislature Party has given a petition under Article 191 of X Schedule of the Constitution of India, r/w Rule 6 of the Members of the Andhra Pradesh Legislative Council (Disqualification on Ground of Defection) Rules, against the Respondent. Consequently, notices were issued and the respondent was provided all the material, digital links in a CD and ample time to rebut the allegations of the petitioner.

5.1.2. The Petitioner had relied mainly on newspaper clippings and video recordings which appeared on various TV channels as proof of the anti-party activities of the Respondent and is having voluntarily given up membership of the YSRC

Party. The Respondent has objected to the use of newspaper clippings and video recordings as evidence by the Petitioner contending that those evidences deserve no consideration.

5.1.3. Prior to dealing with the admissibility of the material that is relied upon by the Petitioner, this Authority wish to consider the *prima facie* value of the pleadings filed by both the Petitioner and the Respondent. Primarily, the Petitioner, even before relying upon the new paper clippings and the videos which suggest the anti-political party activities of the Respondent had categorically and unequivocally referred in the Petition the specific events while mentioning the dates on which such specific acts were committed by the Respondent.

5.1.4. For Example: At Para 3.10 (a) of the Petition, the Petitioner pleaded as follows:

“..... the Respondent had extended his support to the Opposition Party by joining the Opposition Party/Telugu Desam Party on 3rd January, 2024 at about 4 PM at Guntur TDP Central Office in the Presence of TDP Chief Sri Nara Chandrababu Naidu. It is pertinent to note that the respondent had not only visited the Central Office of the opposition party in public on the above said date but had also evidently joined the said political party by symbolically accepting the “khanduva” depicting the color of the Opposition Party flag containing the symbols of opposition party along with photos of opposition leader Sri Nara Chandrababu Naidu.....”

5.1.5. A reading of the above paragraph/pleading would clarify that there is specific allegation against the Respondent to the effect that the Respondent had joined

the Opposition Political Party on 03.01.2024 by meeting the Opposition Party Leader. Further, it could also be seen that the Petition also records several other events in which it is clearly averred that the Respondent had participated to extend his solidarity to the Opposition Party activities.

5.1.6. The rules, stipulate that the Chairman while deciding a case has to give a reasonable opportunity to the member to represent his case and to be heard in person.

5.1.7. In this regard the following observation made by the supreme court in its judgement dated the 11th of December, 2006 in ***Jagjit Singh vs State of Haryana and others (2006 11 SCC 1)*** is relevant:

“The question whether reasonable opportunity has been provided or not cannot be put in a straight-jacket and would depend on the fact situation of the case. At the outset, we may mention while considering the plea of violation of principles of natural justice, it is necessary to bear in mind the proceedings, under the Tenth Schedule, are not comparable to either a trial in a court of law or departmental proceedings for disciplinary action against an employee. The scope of judicial review in respect of proceedings before such Tribunal is limited. We may hasten to add that howsoever limited may be the field of judicial review, the principles of natural justice have to be complied with and in their absence, the orders would stand vitiated. The yardstick to judge the grievance that reasonable opportunity has not been afforded would, however, be different. Further, if the view taken by the tribunal is a reasonable one, the court would decline to strike down an order on the ground that another view is more reasonable. The tribunal can draw an inference from the conduct of a member, of course, depending upon the facts of the case and totality of the circumstances. While applying the principles of natural justice, it must be borne in mind that they are not immutable but flexible and they

are not cast in a rigid mould and cannot be put in a legal strait-jacket. Whether the requirements of natural justice have been complied with or not has to be considered in the context of the facts and circumstances of a particular case”.

5.1.8. In view of the above observations of the Supreme Court vis-a-vis the facts and circumstances of the instant case, the Respondent was offered ample opportunity to proceed with the Petition effectively. As a matter of fact, quite in line with the principles of natural justice and also keeping in line with the requirements of Rules the Respondent was offered several opportunities of being heard in person to represent his case.

5.1.9. The Respondent was provided all the material, digital links in the CD and ample time to rebut the allegations of the Petitioner. Several opportunities were given for oral hearing to clarify his position on the Certificate under Section 65B of Indian Evidence Act, 1872 as well. The Respondent has not made use of the opportunities provided and filed an I.A No.1 of 2024 for seeking an opportunity to make submission. The above actions of the Respondent clearly evidence the procrastinating attitude of the Respondent and despite opportunity accorded the Respondent did not bring anything on record. Therefore, the matter was reserved for Orders.

5.1.10. This authority also takes this opportunity to address one issue before going ahead to deal with the other issues. There has been a criticism about some presiding officers for not taking decision on the disqualification petitions

under the X Schedule of the Constitution of India within a reasonable time. Some cases are kept pending for years contrary to the law. It is pertinent to note that the Supreme Court also expressed its concern about the unnecessary delay in taking a decision on the disqualification petitions by the Presiding Officers of the Legislatures. There are several cases where the courts have expressed concern about the unnecessary delay in deciding the disqualification petitions. The disqualification petitions go to the root of the democratic institutions and their functioning.

5.1.11. This raises the question whether a particular legislator is entitled to sit in the legislature or not. Therefore, this authority feels that the disqualification petitions must be heard and decided as expeditiously as possible after giving reasonable opportunity to the parties to make their submissions. An effective adjudication of these cases would effectively eliminate the evil of defections, and if this is not done, it is likely to undermine the very foundations of our democratic institutions. Further, it can also be seen that Rule 7 gives an indication of the intention of the Rule for expeditious disposal of the petition.

5.1.12. Further, the Respondent has also pleaded that the electronic evidence that was placed on record was not supported by an appropriate Certificate under the Section 65B of the Evidence Act, 1872. It is seen that the Petitioner during the course of the proceedings has rectified the procedural shortcoming by filing the Certificate duly explaining the source and other details of the

computer on which the Videos were accessed by the Petitioner accessing of the videos that are relied upon by the Petitioner on World Wide Web. It is further pertinent to note that as the Defect under Certificate under the Section 65B of the Evidence Act, 1872 is a curable defect and have cured the said defect, the Petitioner had concluded the issue. Further, it is pertinent to note that ample opportunity was granted to the Respondent to make any submission w.r.t., Certificate under the Section 65B of the Evidence Act, 1872 that was filed by the Petitioner and the Respondent chose to not make any submissions in relation to the same.

- 5.1.13.** The Respondent has objected to the use of newspaper clippings and video recordings as evidence by the Petitioner contending that those evidences deserve no consideration and is not sustained. Further, at this juncture, it is imperative to underscore the importance of media and news channels and there are numerous instances where the Hon'ble Supreme Court and High Court took proactive stance by taking *suo moto* cognizance of news articles and videos aired by news channels, recognizing them as valid pieces of evidence. These actions underscore the judiciary's commitment to uphold justice and ensure that even incidents reported in the media are duly scrutinized and addressed. Whether it is cases of human rights violations, environmental degradation, or administrative lapses, the courts have shown readiness to intervene based on credible media reports. Such instances not

only showcase the judiciary's responsiveness to public concerns but also highlight the pivotal role that media plays in fostering accountability and transparency within society. By according significance to newspaper articles and news channel videos, the courts reinforce the principle that the media serves as a vital watchdog, contributing to the enforcement of the rule of law and safeguarding the rights of citizens.

5.1.14. Further, most defection cases often hinge on evidence brought forth by newspapers or media reports, underlining the critical role of such evidence in legal proceedings. The reliance on media evidence underscores its significance in uncovering instances of political *manoeuvring* or legislative impropriety. Given the widespread dissemination and accessibility of media content, overlooking such evidence would disregard a vital source of information crucial for upholding the integrity of democratic processes, importance of media evidence in defection cases, recognizing its capacity to shed light on clandestine dealings and ensure accountability among public officials. Hence, it is imperative that these evidence are duly considered and evaluated within the legal framework to uphold the principles of fairness and justice.

5.1.15. Upon reading the above allegations, this Authority looked into the corresponding response of the Respondent in the Reply filed and placed

before this Authority. A reference to the same would clarify that the Respondent had not denied the allegations on the face of it. However, chose only to take a technical objection that the videos and the news paper articles stating that they doesn't require any consideration. Upon perusal of the record it is clearly visible that the Respondent had not denied the actual allegations of his meeting the Opposition Party Leader and his activities extending support to the activities of the Opposition Party. In the said circumstances, it is imperative to conclude that the Respondent had admitted to the averments and thereby from the record it is clear that the Respondent had indeed voluntarily given up his membership by the conduct which is not denied by the Respondent.

- 5.1.16.** Furthermore, having already come to a conclusion that the Respondent chose not to deny the allegations made in the Petition and had chosen only to take a technical objection, in this Authority's view, in most of the disqualification cases under the X Schedule of the Constitution of India, media reports are the only evidence available and cases have been decided by the presiding officers on the basis of the media reports. In the instant case, this Authority feels that there is no reason as to why newspapers and media channels would publish/report something wrongly and if that was so, then, the least that was expected of the Respondent was to forthwith deny the same and issue clarification/explanation in that regard.

5.1.17. In the instant case some leading telugu newspapers and channels have reported that the Respondent has joined the Telugu Desam Party. Other media reports and photographs collaborate this. The videos also suggest his active participation in the activities of TDP and his joining TDP. The Respondent has not given any proof of refuting/denying the press reports. A loyal worker of a party is supposed to clarify the position whenever such news reports appear. In the instant case the Respondent has not done so nor has the Respondent given the proof of doing so.

5.1.18. The Supreme Court in a landmark judgment in the case of **Ravi S. Naik vs. Union of India** on 9th February, 1994, has amply clarified the term “voluntarily given up the membership” wherein the court had inter alia observed:

“ The said paragraph (Paragraph 2 of the Tenth Schedule of the Constitution which describes the disqualification on the ground of defection inter alia states that a member of a House belonging to any political party shall be disqualified for being a Members of the House if he has voluntarily given up his membership of such political party) provides for disqualification of a member of a House belonging to a political party “ if he has voluntarily given up his membership” are not synonymous with “resignation” and have a wider connotation. A person may voluntarily give up his membership of the political party even if he has not tendered his resignation from the membership of that party. Even in the absence of a formal resignation from membership an inference can be drawn from the conduct of a member that he has voluntarily given up his membership of the political party to which he belongs.”

- 5.1.19.** In the background of the settled above propositions, this Authority propose to examine the Member of Andhra Pradesh Legislative Council (Disqualification on the Ground of Defection) Rules Under Para 6(1) the Chairman is required to decide the question whether a member of the House is subject to the disqualification under the X Schedule.
- 5.1.20.** Despite opportunity accorded consequent to order in I.A No.1 of 2024 in captioned petition, the Respondent failed to make any submissions beyond comments. On the basis of evidence adduced by the Petitioner, this Authority have no hesitation in concluding that the Respondent has been duly informed. In the allegations made in the Petition, the material produced by the Petitioner before this Authority a video evidencing the participation of the Respondent in the events organised by the Opposition Party established that the Respondent wilfully joined hands with the opposition party which is detrimental to the political party on which Respondent was elected as member.
- 5.1.21.** Additionally, as per the proposition as laid by the Hon'ble Supreme Court in *Jagjit Singh vs State of Haryana and others (2006 11 SCC 1)* I record that the Respondent had indeed acted against his original political party and thereby also, the Respondent is liable to be disqualified. Further, consequent to the filing of the Petition, this Authority also received the comments of the Leader of the YSRCP wherein he has stated that he is in agreement with the contention of the Petitioner and the conduct of the Respondent was sufficient evidence to prove that the Respondent has voluntarily given up the membership of the YSRC Party.

5.1.22. Further, it is imperative to record that in spite of an opportunity given to the Respondent to rebut the pleadings and the material so presented by the Petitioner, it was not availed, for reasons best known to the Respondent. All the material placed before this Authority and as per the proposition laid by the Hon'ble Supreme Court in *Jagjit Singh vs State of Haryana and others (2006 11 SCC 1)* categorically proved that the Respondent had indeed acted against his original political party and thereby he defected into TDP.

6. CONCLUSION:

In the said circumstances and the material placed before this Authority and based on above settled legal position, this Authority have no hesitation to believe that the Respondent has incurred disqualification under para 2(1)(a) of the X Schedule of the Constitution. In accordance with the powers vested under para 6 of the X Schedule & Rule 8 of the members of the Andhra Pradesh Legislative Council (Disqualification on Ground of Defection) Rules, this Authority hold that Sri C. Ramachandraiah member of Andhra Pradesh Legislative Council has incurred disqualification under para 2(1)(a) of the X Schedule of the Constitution of India.

Thus, the respondent Sri C. Ramachandraiah stands disqualified for continuing as member of the Andhra Pradesh Legislative Council and it is declared that his seat has fallen vacant.

Disqualification Petition No.2 of 2024**BETWEEN**

Sri Meriga Muralidhar, S/o Ananda Rao,
Aged about 55 years, Govt. whip,
Member of Legislative Council,
Yuvajana Sramika Rythu Congress Party
in A.P. State Legislative Council.

...PETITIONER**AND**

Sri Chennuboina Srinivas Rao,
Member of Legislative Council

...RESPONDENT**ORDER**

This petition is filed by Sri Meriga Muralidhar, Government Whip, YSR Congress Legislature Party, the Petitioner under Article 191 of X Schedule of the Constitution of India, r/w Rule 6 of the Members of the Andhra Pradesh Legislative Council (Disqualification on Ground of Defection) Rules, against Sri Chennuboina Srinivasarao, MLC, YSRCP, the Respondent.

1. SUBMISSIONS OF THE PETITIONER:

- 1.1. The Petitioner in his petition submitted that the respondent was elected as member of the Legislative Council in December, 2021 by the Members of the Local Authorities' of Visakhapatnam.
- 1.2. The Petitioner stated that the Respondent got elected as MLC from YSRCP. The petitioner also stated that the respondent after having

assumed charge as MLC, had voluntarily acted in contravention to the principles and the mandate given by the Majority will of his respective constituency. He had begun to function in affiliation to the Janasena Party and to give up his membership of the legislature party by which the Respondent was elected.

- 1.3.** The Petitioner also stated that the Respondent on 27.12.2023, went to meet State president of Janasena Party and extended his support to the Janasena Party while indicating his allegiance to the actions of the Janasena Party. The Respondent, by his overt act which is video graphed and telecasted in majority of the TV channels and other photographs which have been published in vernacular newspapers has embraced the Janasena Party and in token thereof, the Respondent was presented a Kanduva of Janasena Party which was personally handed over by the Leader of Janasena Party. Further it was averred that the Respondent has acknowledged the fact that he has joined the Janasena Party in open forum and the said videograph has been broadcasted to public on 27.12.2023 and all the photographs, videos and letters issued on Janasena letter heads were enclosed as annexure and proofs of defection petition.

- 1.4.** The Petitioner further stated that the respondent was elected to the Legislative Council by the elected Local Body Members of the YSRC

Party solely to uphold the object of the YSRC Party of welfare oriented policies.

1.5. The Petitioner further submitted that the Respondent was given a ceremonial welcome in to the Janasena Party with huge fanfare and grandeur by the functionaries of the Janasena Party including the Party president which were videographed and telecast in all TV channels and photographs which have been published in all the vernacular newspapers and the Respondent has neither denied nor contradicted the contents of such telecasts and publications evidencing thereby that the Respondent has conclusively by his act and intent voluntarily given up his membership of YSRCP within the meaning of the said expression in para 2(1)(a) of the X Schedule of the Constitution of India.

1.6. The visible conduct of the Respondent undeniably amounts to voluntarily giving up his membership of YSRCP. The Respondent contested elections and secured election from the YSRC Party and has defected to Janasena Party and the Respondent, therefore, deserves to be disqualified from being continued as member of Legislative Council as mandated under para 2(1)(a) of the X Schedule of the Constitution of India. The Petitioner prayed to disqualify the Respondent i.e. Sri Chennuboina Srinivasa Rao as the Respondent had voluntarily given

up his membership of the political party by which Respondent has got elected.

2. THE PROCEEDINGS BEFORE THIS AUTHORITY:

- 2.1.** On 8th January 2024, Sri Muralidhar Meriga, the Petitioner, Govt. Whip has submitted the captioned disqualification petition and the Respondent was served a notice on the same day to offer his comments within a week through India Post by providing all the papers along with the C.D. given by the Petitioner and through email and Whatsapp as well.
- 2.2.** On 12th January, 2024 the Respondent has stated that he was in receipt of the communication and requested to grant another 10 days time for submission of his comments due to ill health and Sankranthi festival. This Authority having considered his request and extended the time for offering comments for one more week w.e.f. 19.01.2024 i.e., by 25th January 2024.
- 2.3.** Again on 23rd January 2024 the respondent requested to extend the time again for another 10 days due to ill health of his wife to submit his comments, to which this Authority did not accede and on 25.01.2024, this authority issued notice and the same was served to the Respondent on the same day, wherein Respondent was directed to appear before this Authority for oral hearing on 29th January 2024.

- 2.4.** The petitioner did not appear for oral hearing due to ill health; however the respondent appeared before this Authority on 29th January 2024. During the oral hearing on 29th January, 2024 the Respondent requested this Authority to show the original documental evidences of news paper clippings and also requested to give one month time to examine the petition and to submit the comments by verifying the original documental evidences. On 30.01.2024, notice was served to the respondent to appear before this Authority for oral hearing on 8th February 2024 and an opportunity was given to the Respondent to verify and authenticate the documents submitted by the Petitioner. Besides this, an opportunity was given to Respondent to submit his comments by 5th February, 2024.
- 2.5.** On 5th February, 2024 the Respondent filed Counter Affidavit and the preliminary comments by denying all the allegations made in the petition by the petitioner.
- 2.6.** On 8th February, 2024, Petitioner and Respondent appeared and made their submissions. Further, the Petitioner filed an affidavit u/s 65 (B) of Indian Evidence Act, 1872 along with acknowledgement receipt given by the Respondent. On the same day a notice was served to the respondent to depose before this Authority for oral hearing on

13th February 2024. Again on 12th February 2024 the respondent requested to grant 3 weeks time to attend the oral hearing due to his ill health. Further on 13th February, 2024 a notice was served to the Respondent to appear before this Authority on 19th February 2024 for final oral hearing and to make submissions w.r.t. the affidavit filed by the Petitioner under 65(B) of the Indian Evidence Act, 1872 and other matters.

2.7. The Respondent chose not to appear for oral hearing on 19.02.2024.

Upon such non-appearance, this Authority having granted ample opportunity had got issued a letter dated 19.02.2024 informing that the Petition will be finalized based on the merits/records as are placed before this Authority and had reserved decision on the Disqualification Petition. At such juncture, when the Disqualification Petition was concluded and reserved for Orders, the Respondent filed a letter before this Authority and requested for according an opportunity make submissions.

2.8. This Authority observes that though the Respondent is not entitled for any further opportunities and had already reserved order, this Authority may proceed to issue the final order. However, having made the above prima facie observation, this Authority feels that providing one last opportunity to the Respondent to make his submissions in the

proceedings would not cause any irreparable loss or adverse effect upon the Petitioner. Further, keeping in mind the objective of principles of natural justice, though the Respondent is not entitled to any opportunity, this Authority accorded one final opportunity to the Respondent and posted the Disqualification Petition for final hearing on 05.03.2024.

3. COMMENTS MADE BY THE RESPONDENT:

- 3.1.** The Respondent in his counter affidavit stated that the Respondent, is a Member of Legislative Council, Visakhapatnam and it is a detailed response to the petition filed against him alleging defection from his party, the Yuvajana Sramika Rytu Congress Party (YSRCP), to the Janasena Party. The Respondent stated that he vehemently denies the allegations and presented a point-by-point rebuttal to each claim made in the petition.
- 3.2.** The Respondent in his counter affidavit/ comments stated that he acknowledges his membership in the YSRCP and his representation in the Legislative Council through the Local Bodies Quota, emphasizing his commitment to the party's objectives and welfare-oriented policies. The Respondent refutes the claim of joining the Janasena Party, asserting that allegations about his actions and meetings with Janasena Party officials are false and unsupported by evidence. Further,

Respondent alleges that any media coverage suggesting otherwise is manipulated and circulated by political rivals to tarnish his reputation.

- 3.3.** The Respondent in counter affidavit/ comments highlighted the context of the upcoming General Elections-2024, suggesting that the petition may be politically motivated to undermine his candidacy and exploit public sentiment.
- 3.4.** That the Respondent stated that he has never resigned from the YSRCP or joined any other party, and challenges the maintainability of the petition based on lack of evidence and procedural irregularities. It is further stated that Respondent in his counter affidavit/ comments emphasized on his dedication to serving his constituents and the public, emphasizing his continued loyalty to the YSRCP and commitment to its principles.
- 3.5.** The Respondent in his comments/ counter affidavit characterizes the petition as malicious and without merit, aimed at unjustly removing him from his party membership and disqualifying him from the Legislative Council. Further, he expresses readiness to defend his innocence and loyalty to his party before the appropriate authority, reiterating his request for the dismissal of the petition. Further, Respondent contended that the allegations do not align with constitutional provisions

or legislative rules and petition deserved to be dismissed.

3.6. Furthermore, it is pertinent to mention that during the oral hearing on 05.03.2024, the Counsel for the Respondent raised various technical objections during oral submissions. However, it is noted that none of these objections were pleaded in the counter affidavit or comments submitted by the Respondent. Nevertheless, this Authority observes that in the interest of justice and equity, it is relevant to address those objections even though they were not initially pleaded by the Respondent. The major objections raised by the Respondent are (1) Whip cannot file a petition, only party President has to file, (2) The Petitioner without following rule 6&7 of the Members of Andhra Pradesh Legislative Council (Disqualification on Ground of Defection) Rules filed the petition and same is liable to be dismissed, (3) Section 65B Affidavit was filed at belated stage and (4) Argued that in the event that this Authority is not satisfied then requested to refer the case to the committee.

3.7. Having granted ample opportunity to the Respondent to come forward and verify the record, the Respondent continued to not come forward and continued to seek time on flimsy grounds and continued to postpone the proceedings on one pretext or the other till 05.03.2024 and on 05.03.2024 made oral submissions and all the material relied by both the

parties are already on record, this Authority proceeds to issue the following orders.

4. ISSUES FOR CONSIDERATION:

Having considered the submissions of the Petitioner and also the submissions made by the Respondent, the following questions are identified to be taken up for consideration and adjudication in the present proceedings:

- 1. Whether the Petition filed by the Petitioner is maintainable in its present form?*
- 2. Whether referring the Petition filed by the Petitioner to committee is Mandatory procedural requirement or not? If it is not Mandatory whether present case is a fit case to refer to committee or not?*
- 3. Whether Respondent has given up the membership of the Original Political Party voluntarily? Whether the alleged antiparty activities of Respondent can be inferred as voluntarily given up the membership of YSRC Party?*
- 4. Whether the Respondent is liable to be disqualified and whether the relief sought in the Petition can be granted or the Petition is liable to be dismissed?*

5. ANALYSIS / REASONING:

5.1. *Whether the Petition filed by the Petitioner is maintainable in its present form? And Whether referring the Petition filed by the Petitioner to committee is Mandatory procedural requirement or not? If it is not Mandatory whether present case is a fit case to refer to committee or not?* As the said Issues are intertwined, this Authority is dealing to analyse both the Issues simultaneously.

5.1.1. Under Para 2(1)(a) of the Tenth Schedule of the Constitution of India, a petition alleging defection can be filed by any member of a legislative body against another member who is alleged to have voluntarily given up the membership of their original political party. This means that any

member of a Legislative Assembly or Legislative Council, whether from the ruling party, opposition, or any other party, can file such a petition if they have reasonable grounds to believe that another member has defected from their original party. The petition must be submitted to the Speaker or the Chairman in which the alleged defection has occurred in accordance with the rules. Therefore, the objection that Government whip cannot file a petition is rejected as untenable.

5.1.2. The Respondent argued that the Petition filed by the Petitioner is not in compliance with the mandatory requirements specified under Rule 6(6) the Member of Andhra Pradesh Legislative Council (Disqualification on ground of Defection) Rules and therefore, the Petition is liable to be rejected under Rule 7(2) of the Rules.

The above-mentioned Rules read as hereunder:

Rule 6(6) – Every Petition shall be signed by the Petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (5 of 1908) for verification of pleadings.

Rule 7(2) – If the Petition does not comply with the requirements of Rule 6, the Chairman shall dismiss the Petition and intimate the Petitioner accordingly.

5.1.3. Upon reading the above provisions, it could be seen that Rule 6(6) refers to the provisions of the Civil Procedure Code, 1908 and unless the relevant provision of the Code is read into the above-mentioned provision, the provision cannot be considered as complete. Therefore,

the relevant Order VI Rule 15 is extracted hereunder:

Order VI Rule 15 CPC lays down that a pleading must be verified in the following manner:

- i. *Every pleading compulsorily needs to be verified at the foot by the party or by one of the parties pleading or by some other person proved to the satisfaction of the court to be acquainted with the facts of the case.*
- ii. *The person who verifies a pleading needs to specify, by reference to the numbered paragraphs of the pleading, what he verifies of his own knowledge and what he verifies upon information received and believed to be true.*
- iii.
- iv.

5.1.4. While considering the above provisions, it could be comfortably deduced that every Petition/Pleading that is placed before this authority is required to be duly verified by party filing such a pleading.

5.1.5. In the present set of facts, the Petition, *per se*, may not have been affixed with verification at its bottom, the said Petition is accompanied with an affidavit. It could further be seen that the affidavit reiterated each and every statement that was made in the Petition and the said Affidavit was duly and appropriately verified with verification at its end. It could be deduced that the Petition and the accompanying affidavit together will have to be considered as pleading and as the contents of the Petition are

duly verified by way of a verification in the accompanying affidavit, it shall be considered that the procedural requirement as is contemplated under the Rule 6(6) of the Rules stands fully complied with.

5.1.6. Further, it is settled principle of law that the requirement of Order VI Rule 15 is procedural and thereby if the objective of the said provision stands achieved, then, the Petition need not be dismissed on the said sole technical ground as pleaded by the Respondent.

Having recorded the above, the Petition filed by the Petitioner is well in compliance of the said applicable Rules and thereby the hyper-technical objection of the Respondent is hereby rejected.

5.1.7. The rule 7(7) of the members of the Rules, stipulates that the Chairman while deciding a case has to give a reasonable opportunity to the member to represent his case and to be heard in person.

5.1.8. In this regard the following observation made by the supreme court in its judgment dated the 11th of December, 2006 in ***Jagjit Singh vs State of Haryana and others (2006 11 SCC 1)*** is relevant:

“The question whether reasonable opportunity has been provided or not cannot be put in a straight-jacket and would depend on the fact situation of the case. At the outset, we may mention while considering the plea of violation of principles of natural justice, it is necessary to bear in mind the proceedings, under the Tenth Schedule, are not comparable to either a trial in a court of law or

departmental proceedings for disciplinary action against an employee. The scope of judicial review in respect of proceedings before such Tribunal is limited. We may hasten to add that howsoever limited may be the field of judicial review, the principles of natural justice have to be complied with and in their absence, the orders would stand vitiated. The yardstick to judge the grievance that reasonable opportunity has not been afforded would, however, be different. Further, if the view taken by the tribunal is a reasonable one, the court would decline to strike down an order on the ground that another view is more reasonable. The tribunal can draw an inference from the conduct of a member, of course, depending upon the facts of the case and totality of the circumstances. While applying the principles of natural justice, it must be borne in mind that they are not immutable but flexible and they are not cast in a rigid mould and cannot be put in a legal strait-jacket. Whether the requirements of natural justice have been complied with or not has to be considered in the context of the facts and circumstances of a particular case”.

5.1.9. In view of the above observations of the Supreme Court vis-a-vis the facts and circumstances of the instant case, the Respondent was offered ample opportunity to proceed with the Petition effectively. As a matter of fact, quite in line with the principles of natural justice and also keeping in line with the requirements of Rule 7(7) of the Rules, the Respondent was offered several opportunities of being heard in person to represent his case and also bring his lawyer in oral hearing.

5.1.10. The Respondent was provided all the material, digital links in a CD and ample time to rebut the allegations of the Petitioner. Several opportunities were given for oral hearing to clarify his position

on the Certificate under Section 65B of Indian Evidence Act, 1872. The Respondent has not made use of the opportunities provided. The above actions of the Respondent clearly evidence the procrastinating attitude of the Respondent and thereby the request for further time was rejected and the matter was reserved for Orders.

5.1.11. This authority also take this opportunity to address one issue before going ahead to deal with the other issues. There has been a criticism about some presiding officers not taking decision on the disqualification petitions under the X Schedule of the Constitution of India within a reasonable time. Some cases are kept pending for years contrary to the law. It is pertinent to note that the Supreme Court also expressed its concern about the unnecessary delay in taking a decision on the disqualification petitions by the presiding officers of the legislatures. There are several cases where the courts have expressed concern about the unnecessary delay in deciding the disqualification petitions. The disqualification petitions go to the root of the democratic institutions and their functioning.

5.1.12. This raises the question whether a particular legislator is entitled to sit in the legislature or not. Therefore, this authority feel that the disqualification petitions must be heard and decided as expeditiously as possible after giving reasonable opportunity to the parties to make their

submissions. An effective adjudication of these cases would effectively eliminate the evil of defections, and if this is not done, it is likely to undermine the very foundations of our democratic institutions. Further, it can also be seen that Rule 7 gives an indication of the intention of the Rule for expeditious disposal of the petition.

- 5.1.13. Further, the Counsel for Respondent also argued that the electronic evidence that was placed on record was not supported by an appropriate Certificate under the Section 65B of the Evidence Act, 1872. It is seen that the Petitioner during the course of the proceedings has rectified the procedural shortcoming by filing the Certificate duly explaining the source and other details of the computer on which the Videos were accessed by the Petitioner accessing of the videos that are relied upon by the Petitioner on World Wide Web. It is further pertinent to note that as the Defect under Certificate under the Section 65B of the Evidence Act, 1872 is a curable defect and has cured the said defect, the Petitioner had concluded the issue. Further, it is pertinent to note that ample opportunity was granted to the Respondent to make any submission w.r.t., Certificate under the Section 65B of the Evidence Act, 1872 that was filed by the Petitioner and the Respondent chose to not make any submissions in relation to the same in the said circumstances, the said objection that Certificate under the Section 65B of the Evidence

Act, 1872 was not filed by the Petitioner at the time of filing of the Petition has no relevance and thereby is rejected.

5.1.14. Consequent to the above analysis, it is extremely clear that the Petition/Pleading is duly verified and the Material filed along with the Petition is also duly certified and verified by the Petitioner through a Certificate filed in compliance with Section 65B of the Indian Evidence Act, 1872. Having arrived at the above conclusions, it is held that the Petition in its present form is very much in compliance with the applicable rules and also Section 65B of the Evidence Act, 1872. Therefore, the objections raised by the Respondent questioning the Form and the Format of the Petition are denied as baseless.

5.1.15. The procedural requirements of the Committee of Privileges often necessitate a prolonged timeframe to conduct preliminary inquiries and subsequently prepare and submit final reports. The said requirement inadvertently lead to delays in the progression of proceedings and the ultimate determination of the final question at hand, thereby contravening the underlying objectives of the Tenth Schedule of Constitution of India. Such delays, if left unchecked, have the potential to undermine the essence of the Anti-Defection Law, which primarily aims to mitigate the deleterious effects of defection by ensuring that members are duly held accountable for their actions.

5.1.16. Notwithstanding instances of defection, a member cannot be afforded impunity from the consequences thereof solely on the grounds of procedural technicalities. This jurisprudential stance underscores the imperative of upholding the integrity of anti-defection measures, notwithstanding procedural nuances. At this juncture, it is imperative to note that the Hon'ble Apex Court in *Jagjit Singh Vs. State of Haryana & Ors [(2006) 11 SCC 1]*, had observed as follows:—

"Despite defection a member cannot be permitted to get away with it without facing the consequences of such defection only because of mere technicalities."

5.1.17. Further, sub-rule (4) of Rule 7 of the Rules reads as follows:—

"After considering the comments, if any, in relation to the petition, received under sub-rule (3) within the period allowed (whether originally or on extension under that sub-rule), the Chairman may either proceed to determine the question or, if he is satisfied, having regard to the nature and circumstances of the case that it is necessary or expedient so to do, refer the petition to the Committee for making a preliminary inquiry and submitting a report to him."

5.1.18. Upon bear perusal of sub-rule (4) of Rule 7 of the Rules governing such proceedings delineates a discretionary authority vested in the Chairman. This provision stipulates that subsequent to due consideration of comments, if any, pertaining to the petition, the Chairman may elect to proceed with determining the question autonomously or, if deemed necessary or expedient, refer the matter to the Committee for a preliminary inquiry and subsequent report submission.

- 5.1.19. At this juncture it becomes imperative to observe that mandatory referral to the Committee of Privileges is not a prerequisite in every instance, but rather contingent upon the specific nature and circumstances of the case. The Chairman possesses the discretion to either opt for direct adjudication or refer the matter for preliminary inquiry, depending on the exigencies of the situation. It is noteworthy to emphasize the use of the term 'preliminary inquiry' in sub-rule (4) of Rule 7, indicative of the fact that even subsequent to the Committee's preliminary investigation, the ultimate analysis and determination of facts rest within the purview of the Chairman.
- 5.1.20. In the light of these statutory provisions and legal precedents, it is evident that it is not mandatory to refer each and every case to the Committee of Privileges as a matter of routine. Depending upon the nature and circumstances of the case, the Chairman may or may not refer the petition to the Committee for making a preliminary inquiry. However, it was incumbent upon this Authority to exercise discretion judiciously in the interest of justice and after considering nuances of the Anti-Defection Law.
- 5.1.21. Therefore, when the facts of the case are clear, the Chairman, in his wisdom, may decide to proceed in the matter on his own. Attention is also drawn to the use of the word 'preliminary inquiry' in sub-rule (4) of

Rule 7, which means that even after a preliminary inquiry by the Committee, it is for the Chairman to finally analyze the facts and come to a final conclusion. Further, even in accordance with the literal rule of construction and pursuant to the discretion conferred upon this Authority, it was imperative to ascertain that a prima facie case had been established prior to invoking such discretion. Consequently, having duly assessed the factual matrix and contextual circumstances of the present case, this Authority resolved to proceed with the determination of the question of disqualification concerning the Respondent autonomously, in adherence to the principles of fairness and expediency.

5.2. *Whether Respondent has given up the membership of the Original Political Party voluntarily? Whether the alleged antiparty activities of Respondent can be inferred as voluntarily given up the membership of YSRC Party? & whether the Respondent is liable to be disqualified and whether the relief sought in the Petition can be granted or the Petition is liable to be dismissed? As the said Issues are intertwined, This Authority dealing to analyse both the Issues simultaneously.*

5.2.1. The Petitioner had relied mainly on newspaper clippings and video recordings which appeared on various TV channels as proof of the anti-party activities of the Respondent and his having voluntarily given up membership of the YSRC Party. The Respondent has objected to the use of newspaper clippings and video recordings as evidence by the Petitioner contending that newspaper articles cannot be relied upon as evidence in the absence of any witness. Further, the Respondent had

also objected to a reference to various video clippings as published by the News Channels on the ground that the source of the same is not duly certified as is required under Section 65B of the Indian Evidence Act, 1872.

5.2.2. Prior to dealing with the admissibility of the material that is relied upon by the Petitioner, this Authority wish to consider the *prima facie* value of the pleadings filed by both the Petitioner and the Respondent. Primarily, the Petitioner, even before relying upon the new paper clippings and the videos which suggest the anti-political party activities of the Respondent had categorically and unequivocally referred in the Petition the specific events while mentioning the dates on which such specific acts were committed by the Respondent.

5.2.3. *For Example: At Para III (4) of the Petition, the Petitioner pleaded as follows:*

“...the Respondent on 27.12.2023, went to meet State president of Janasena Party and extended his support to the Janasena Party while indicating his allegiance to the actions of the Janasena Party. The Respondent, by his overt act which is video graphed and telecasted in majority of the TV channels and other photographs of which have been published in vernacular newspapers has embraced the Janasena Party and in token thereof, he was presented a Kanduva of Janasena Party which was personally handed over by the president of Janasena Party...”

5.2.4. A reading of the above paragraph/pleading would clarify that there is specific allegation against the Respondent to the effect that the Respondent had joined the Janasena Party on 27.12.2023 by meeting the Janasena Party Leader. Further, it could also be seen that the Petition also records several other events in which it is clearly averred that the Respondent had participated to extend his solidarity to the Janasena Party activities.

5.2.5. At this juncture, it is imperative to underscore the importance of media and news channels and there are numerous instances where the Hon'ble Supreme Court and High Courts' took proactive stance by taking *suo moto* cognizance of news articles and videos aired by news channels, recognizing them as valid pieces of evidence. These actions underscore the judiciary's commitment to uphold justice and ensure that even incidents reported in the media are duly scrutinized and addressed. Whether it is cases of human rights violations, environmental degradation, or administrative lapses, the courts have shown readiness to intervene based on credible media reports. Such instances not only showcase the judiciary's responsiveness to public concerns but also highlight the pivotal role that media plays in fostering accountability and transparency within society. By according significance to newspaper articles and news channel videos, the courts reinforce the

principle that the media serves as a vital watchdog, contributing to the enforcement of the rule of law and safeguarding the rights of citizens.

5.2.6. Further, most defection cases often hinge on evidence brought forth by newspapers or media reports, underlining the critical role of such evidence in legal proceedings. The reliance on media evidence underscores its significance in uncovering instances of political *maneuvering* or legislative impropriety. Given the widespread dissemination and accessibility of media content, overlooking such evidence would disregard a vital source of information crucial for upholding the integrity of democratic processes. Importance of media evidence in defection cases, recognises its capacity to shed light on clandestine dealings and ensure accountability among public officials. Hence, it is imperative that these evidence are duly considered and evaluated within the legal framework to uphold the principles of fairness and justice.

5.2.7. Upon reading the above allegations, this Authority looked into the corresponding response of the Respondent in the reply filed and placed before this Authority. A reference to the same would clarify that the Respondent had not denied the allegations on the face of it. However, he chose only to take a technical objection that the videos and the newspaper articles are not appropriately supported by the certificates and

the verifications. Upon perusal of the record it is clearly visible that the Respondent had not denied the actual allegations of his meeting the Janasena Party Leader and his activities extending support to the activities of the Janasena Party. In the said circumstances, it is imperative to conclude that the Respondent had admitted to the averments and thereby from the record it is clear that the Respondent had indeed voluntarily given up his membership by conduct which is not denied by the Respondent.

5.2.8. Furthermore, having already come to a conclusion that the Respondent chose not to deny the allegations made in the Petition had chosen only to take a technical objection, in this Authority's view, in most of the disqualification cases under the X Schedule of the Constitution of India, media reports are the only evidence available and cases have been decided by the presiding officers on the basis of the media reports. In the instant case, this Authority see no reason as to why newspapers and media channels would publish/report something wrongly and if that was so, then, the least that was expected of the Respondent was to forthwith deny the same and issue clarification/explanation in that regard.

5.2.9. In the instant case some leading telugu newspapers have reported that the Respondent has joined the Janasena Party and also Janasena Party

on its letter head conferred some responsibilities unto the Respondent. Copy of the said letter head was also filed by the petitioner along with petition. Further, it is noted that other media reports and photographs collaborate said incident. The videos also suggest his active participation in the activities of Janasena Party and his joining Janasena Party. The Respondent has not given any proof of refuting/denying the press reports. A loyal worker of a party is supposed to clarify the position whenever such news reports appear. In the instant case the Respondent has not done so nor has Respondent given the proof of doing so.

- 5.2.10. The Supreme Court in a landmark judgment in the case of **Ravi S. Naik vs. Union of India** on 9th February, 1994, has amply clarified the term “voluntarily given up the membership” wherein the court had inter alia observed:

“ The said paragraph (Paragraph 2 of the Tenth Schedule of the Constitution which describes the disqualification on the ground of defection inter alia states that a member of a House belonging to any political party shall be disqualified for being a Members of the House if he has voluntarily given up his membership of such political party) provides for disqualification of a member of a House belonging to a political party “ if he has voluntarily given up his membership” are not synonymous with “resignation” and have a wider connotation. A person may voluntarily give up his membership of the political party even if he has not tendered his resignation from the membership of that party.

Even in the absence of a formal resignation from membership an inference can be drawn from the conduct of a member that he has voluntarily given up his membership of the political party to which he belongs.”

5.2.11. In the background of the settled above propositions this Authority propose to examine the Member of Andhra Pradesh Legislative Council (Disqualification on ground of Defection) Rules. Under Para 6(1) the Chairman is required to decide the question whether a member of the House is subject to the disqualification under the X Schedule.

5.2.12. Despite the Respondent's non-appearance for the oral hearing on 19.02.2024, ample opportunities were previously afforded to them.

Subsequently, upon reserving the Disqualification Petition for Orders, the Respondent submitted a letter requesting an opportunity to make submissions. While the Respondent is not inherently entitled to further opportunities at this stage, this Authority, in adherence to principles of natural justice, decided to provide one final opportunity for the Respondent to present his case and posted the captioned petition for hearing on 05.03.2024, ensuring fairness in the proceedings while balancing the interests of both parties and heard both parties and perused the record.

- 5.2.13. On the basis of evidence adduced by the Petitioner, this Authority have no hesitation in concluding that the Respondent has been duly informed. In the allegations made in the Petition, the material produced by the Petitioner before this Authority a video evidencing the participation of the Respondent in the events organized by the Janasena party established that the Respondent wilfully had joined hands with the Janasena party which is detrimental to the political party on which Respondent was elected as member.
- 5.2.14. Additionally, per the proposition as laid by the Hon'ble Supreme Court in *Jagjit Singh vs State of Haryana and others (2006 11 SCC 1)* I record that the Respondent had indeed acted against his original political party and thereby also, the Respondent is liable to be disqualified. Further, consequent to the filing of the Petition, this Authority also received the comments of the Leader of the YSRCP wherein he has stated that he is in agreement with the contention of the Petitioner and the conduct of the Respondent was sufficient evidence to prove that the Respondent has voluntarily given up the membership of the YSRC Party.

5.2.15. Further, it is imperative to record that inspite of an opportunity given to the Respondent to rebut the pleadings and the material so presented by the Petitioner, it was not availed, for reasons best known to the Respondent himself. All the material placed before this Authority and as per the proposition laid by the Hon'ble Supreme Court in *Jagjit Singh vs State of Haryana and others (2006 11 SCC 1)* it is categorically proved that the Respondent had indeed acted against his original political party and thereby he defected into Janasena Party.

6. CONCLUSION:

In the said circumstance and the material placed before this Authority and based on above settled legal position, this Authority have no hesitation to believe that the Respondent has incurred disqualification under para 2(1)(a) of the X Schedule of the Constitution. In accordance with the powers vested under para 6 of the X Schedule & Rule 8 of the Members of the Andhra Pradesh Legislative Council (Disqualification on ground of Defection) Rules, this Authority hold that Sri Chennuboina Srinivasa Rao, Member of Andhra Pradesh Legislative Council from Visakhapatnam Local Authorities Constituency has incurred disqualification under para 2(1)(a) of the X Schedule of the Constitution of India.

Thus, the Respondent, Sri Chennuboina Srinivasarao, stands disqualified for continuing as member of the Legislative Council and it is declared that his seat has fallen vacant.

KOYYE MOSHENU RAJU,
Chairman,
Andhra Pradesh Legislative Council.

Velagapudi,
Date: 11.03.2024.

Dr. P.P.K. RAMACHARYULU,
Secretary General to State Legislature.

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